

Sixth Appellate District

San Jose, California

MONDAY, JUNE 13, 2005

H027866 MARRIAGE OF ZDENKA AND HERMAN ASTER

The order is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 13, 2005

H027742 PEOPLE v. ABDI

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed June 13, 2005

H028136 In re JENNY M.; MONTEREY COUNTY D.S.S. v. JUAN M.

The order appealed from is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 13, 2005

H026919 PEOPLE v. WILSON

Appellant's request to waive oral argument is granted and hearing in the above entitled cause heretofore scheduled for Tuesday, June 14, 2005, at 1:30 p.m., is ordered off calendar. The cause herein is ordered submitted.
Dated: June 13, 2005 RUSHING, P.J.

H027957 PEOPLE v. SANCHEZ

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed June 13, 2005

H027399 KASKALAVICH v. TSENG, et al.

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed June 13, 2005

TUESDAY, JUNE 14, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Elia, J.; Walsh, J.*; and Beth Miller, Deputy Clerk. (*Judge of the Monterey Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

Sixth Appellate District

San Jose, California

Tuesday, June 14, 2005 (continued)

H025896 PEOPLE v. MARTINEZ

Cause called and argued by Arthur Dudley appearing for Appellant and by Rene Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Premo, Acting P.J. takes the bench.

H027794 HOFFMAN-LA ROCHE, LTD., et al. v. SUPERIOR COURT

Cause called and argued by Frederick D. Baker appearing for Petitioners and by Ara Jabachourian appearing for Real Party in Interest. Cause ordered submitted.

Elia, J. leaves the bench and Bamattre-Manoukian, J. takes the bench.

H026759 SILICON VALLEY TAXPAYERS ASSN., INC, et al. v. SANTA CLARA COUNTY OPEN SPACE AUTHORITY

Cause called and argued by Tony Tanke appearing for Appellants and by Jams Parrinello appearing for Respondent. Cause ordered submitted.

The court recesses until the 1:30 p.m. calendar.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and W. Magsaysay, Deputy Clerk.

H027820 PEOPLE v. SOTO

Cause called and argued by David D. Martin appearing for Appellant and by Allen R. Crown, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027095 RASMUSSEN v. RING CENTRAL, INC., ET AL.

Cause called and argued by Mary Ann O'Hara appearing for Appellant Richard Rasmussen and by Joseph A. Hearst appearing for Appellants Ring Central, Inc., et al. Cause ordered submitted.

H027436 SIAM v. KIZILBASH

Cause called and argued by J. Gordon Finwall appearing for Appellant and by David Y. Chun appearing for Respondent. Cause ordered submitted. Court adjourns.

Sixth Appellate District

San Jose, California

Tuesday, June 14, 2005 (continued)

H028269 PEOPLE v. BONILLA

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 14, 2005

WEDNESDAY, JUNE 15, 2005

H027992 In re D.L.; DFCS v. MICHAEL L.

The order terminating parental rights is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed June 15, 2005

H027124 PEOPLE v. OWENS

The judgment is reversed, and the matter is remanded to permit the court to conduct a new hearing and exercise its discretion on defendant's motion to represent himself in a motion for new trial or sentencing. If the court grants the motion for self-representation, it shall vacate the sentence and proceed accordingly. If defendant's motion for self-representation is denied or he decides not to waive counsel, the judgment shall be reinstated. If the court reinstates the judgment it shall file an amended abstract of judgment which deletes the reference to the stricken enhancement, and it shall forward a certified copy of the amended abstract to the Department of Corrections. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 15, 2005

H028215 PEOPLE v. DIAZ

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed June 15, 2005

Sixth Appellate District

San Jose, California

Wednesday, June 15, 2005 (continued)

H027837 PEOPLE v. GUARDADO

The communications devices condition is modified to read as follows: "Do not use any paging device, portable communications equipment, or surveillance equipment for any unlawful purpose, including but not limited to the sale or purchase of illegal drugs or narcotics." The no-contact probation condition is modified to read as follows: "Do not have contact of any type or duration with any person known to you to be a ward of the court, a probationer, or a parolee, or any person known to you to be on any type of supervised release program, to include EMP, work furlough, and Home Supervision." As so modified, the judgment of conviction is affirmed. We also urge the San Benito County Superior Court and the probation department to act expeditiously to modify their standard, preprinted probation conditions forms to comport with the modifications we order, since a failure to do so may result in additional appeals such as this one. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed June 15, 2005

THURSDAY, JUNE 16, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and R. W. Norvelle, Deputy Clerk.

H025895 PEOPLE v. LEITAO

Cause called and argued by Jill A. Fordyce appearing for Appellant and by Sharon Birenbaum, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027356 PEOPLE v. MURPHY

Cause called and argued by Brian A. Pori appearing for Appellant and by Christopher W. Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, June 16, 2005 (continued)

H027610 Conservatorship of the Person and Estate of VICTOR COLLOD; SEMPERVIRENS FUND, et al. v. FOX, et al.

Cause called and argued by William Brady, Appellant appearing in Propria Persona, by Margaret Brady, Appellant appearing in Propria Persona, by Richard Fox, Appellant appearing in Propria Persona, by Michael Demarias appearing for Respondents Davis, and by Ellen McKissock appearing for Respondent Sempervirens Fund. Cause ordered submitted.

H027868 SCOTT v. ROMANS, et al.

Cause called and argued by David Marcolini appearing for Appellant and by Typer Draa appearing for Respondents. Cause ordered submitted. Court stands in recess

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; McAdams, J.; and J. Casique, Deputy Clerk.

H028001 PEOPLE v. ROBERTO M.

Cause called and argued by Rita Swenor appearing for Appellant and by Michael E. Bannister, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027645 PEOPLE v. TOMAS

Cause called and argued by Gerald Clausen appearing for Appellant and by Dorian Jung, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027797 PEOPLE v. MORAN

Cause called. David Billingsley appears for Appellant and Ronald Niver, Deputy Attorney General, appears for Respondent. Cause ordered submitted without oral argument.

H027801 PEOPLE v. MCMILLAN

Cause called and argued by Deanna Lamb appearing for Appellant and by Frank Dudley, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027808 GU v. BMW OF NORTH AMERICA, LLC

Cause called and argued by Ted William Pelletier appearing for Appellant and by David Killoran appearing for Respondents. Cause ordered submitted. The court is adjourned.

Sixth Appellate District

San Jose, California

Thursday, June 16, 2005 (continued)

H026546 PEOPLE v. JIANG

The judgment is reversed, and the matter is remanded for possible retrial. If the prosecution elects to retry defendant, the trial court shall suppress defendant's statement to Witmer, and it shall also suppress the information in the password-protected privileged documents obtained from defendant's second Cadence-issued laptop computer. It shall also hold a hearing on whether to recuse the prosecutor or the district attorney's office due to the prosecutor's exposure to the privileged information. The trial court shall otherwise proceed in accordance with the views expressed in this opinion. (not published)

(Mihara, J.; We concur: Rushing, P.J., Elia, J.)

Filed June 16, 2005

FRIDAY, JUNE 17, 2005

H028390 In re MERCEDES H.; MONTEREY D.S.S. v. KATRINA P.

The cause herein is ordered submitted.

Dated: June 17, 2005

RUSHING, P.J.

H028426 DFCS v. JORGE E.

The cause herein is ordered submitted.

Dated: June 17, 2005

BAMATTRE-MANOUKIAN, Acting P.J.

H028550 WALMIR O. v. SUPERIOR COURT OF SANTA CLARA COUNTY

The cause herein is ordered submitted.

Dated: June 17, 2005

RUSHING, P.J.

H028550 WALMIR O. v. SUPERIOR COURT OF SANTA CLARA COUNTY

The petition for extraordinary writ is dismissed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed June 17, 2005

H027963 PEOPLE v. MORRIS

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed June 17, 2005

H028197 PEOPLE v. CHESTRA

The cause herein is ordered submitted.

Dated: June 17, 2005

PREMO, Acting P.J.

Sixth Appellate District

San Jose, California

Friday, June 17, 2005 (continued)

H027759 PEOPLE v. MENDOZA

The judgment is ordered modified to reflect modification of the relevant probation condition to read as follows: "While on probation, he will not possess or consume alcohol or illegal drugs or knowingly frequent those places where illegal drugs are used or alcohol is a major item of sale." The judgment is further ordered modified by striking the order to pay \$350 attorney's fees. As so modified, the judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed June 17, 2005

H027646 PEOPLE v. BADILLO

The clerk of the superior court is directed to modify the abstract of judgment to provide that defendant was convicted of a violation of subdivision (f)(1) of Penal Code section 290, and to forward the amended abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; I concur: Mihara, J., Concurring opinion by McAdams, J.)

Filed June 17, 2005